

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

March 22, 2011

In the Matter of D. K. CHAMBERS III, Minor.

No. 299866

Macomb Circuit Court

Family Division

LC No. 2009-000098-NA

Before: K.F. KELLY, P.J., and BORRELLO and RONAYNE KRAUSE, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), and (l). We affirm.

We review the trial court's findings of fact in termination proceedings for clear error. MCR 3.977(K); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). "A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *In re BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004).

"If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5). A trial court only needs to find one statutory ground for termination by clear and convincing evidence to terminate parental rights. MCL 712A.19b(3); *In re Archer*, 277 Mich App 71, 72; 744 NW2d 1 (2007). When a child is removed from the parents' custody, the petitioner is required to make reasonable efforts to rectify the conditions which caused the child's removal by adopting a service plan. MCL 712A.18f(4); *In re Fried*, 266 Mich App 535, 542; 702 NW2d 192 (2005).

The issues that led to the initial adjudication included: the fact that the minor child tested positive for opiates at birth and had to receive medication to address withdrawal symptoms, respondent's long history of substance abuse, respondent's lack of housing and income, and the termination of respondent's parental rights to another child in 2007. At the termination hearing, the trial court took judicial notice of the entire court file including the proceedings that began in 2006 involving respondent's older child. The issues that led to adjudication of respondent's older child also included substance abuse and lack of housing and income. With regard to the older child, respondent was provided a treatment plan to address the issues, but failed to

substantially comply with any of the provisions other than visitation. Just before the start of a termination hearing, respondent relinquished her parental rights to that child.

When the minor child in the instant case was born testing positive for opiates, a petition requesting termination of respondent's parental rights at initial disposition was immediately filed. Respondent agreed to plead to the allegations in the petition and petitioner agreed to amend the petition to request temporary custody. A parent agency agreement was provided to respondent requiring her to participate in a psychological evaluation and a CARE assessment and follow the resulting recommendations; complete parenting classes; attend individual therapy; complete substance abuse treatment; submit to random drug screens; obtain and maintain stable housing; have a legal source of income sufficient to care for the needs of the family; attend visitations with the minor child; and maintain contact with the caseworkers. Respondent was partially compliant with some of the requirements of the parent agency requirements. She obtained a psychological evaluation and the CARE assessment and partially completed parenting classes. She inconsistently attended individual therapy and substance abuse treatment. She submitted to some drug screens, but missed a majority of them, and tested positive for marijuana when the trial court ordered a hair follicle test 14 months after the minor child came into care. She also admitted to relapsing and using heroin on one occasion approximately nine months after the minor child came into care. She did not demonstrate that she had stable housing or a legal source of income sufficient to care for the needs of her family. Respondent lived with family members throughout these proceedings and, during a period of time, moved two and a half hours away from where the minor child lived. Her sources of income were food stamps and cash assistance. She did not have enough funds to pay for gas to attend visitations with the minor child. Even when she received some assistance in the form of gas cards, she was unable to consistently visit the minor child because of other transportation issues, including the unavailability of a working car. Respondent did not consistently maintain contact with the caseworkers, claiming that she was unable to get cell phone reception where she lived.

Respondent argues that she should have been given more time to rectify the conditions that led to the removal of the minor child from her custody. We disagree. We conclude that the record is clear that reasonable efforts were made to preserve the family. Petitioner agreed to amend the petition to allow respondent an opportunity to plan for the minor child and work on a parent agency agreement under circumstances that would typically warrant termination on initial disposition. Petitioner provided numerous referrals and was extremely accommodating with visitation, including providing gas cards and allowing for a flexible visitation schedule. In addition, the trial court gave respondent numerous chances, including rescheduling the permanency planning hearing three times in order to allow respondent additional time to accomplish her goals. The trial court was extremely patient with respondent, carefully explaining to her what information was necessary to show the court that she was addressing her issues, and giving her partial credit for complying with some of the requirements of the parent agency agreement. Further, we conclude that the evidence was clear and convincing that the conditions that led to adjudication continued to exist and, based on respondent's inability to address these significant issues over the course of two parent agency agreements and several years, there was no reasonable likelihood that the conditions would be rectified within a reasonable time. As a result, the trial court's findings that MCL 712A.19b(3)(c)(i) and (g) had been established were supported by clear and convincing evidence.

With respect to MCL 712A.19b(3)(l), there was no question that respondent's rights to another child were terminated in 2007. Respondent had an older child, and the termination proceedings for that child were before the same referee as the minor child in the instant case. After failing to substantially comply with the terms of the parent agency agreement, respondent voluntarily relinquished her rights. We conclude that the trial court did not clearly err when it found the evidence clear and convincing with respect to this statutory subsection.

Finally, the trial court did not clearly err in determining that termination was in the minor child's best interest. The minor child was removed from respondent's care at birth and respondent did not consistently attend visitations. It was clear that no bonding had occurred. The minor child deserved a secure, stable environment where his basic needs were met, and respondent was unable to provide that.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Stephen L. Borrello
/s/ Amy Ronayne Krause